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Remarks.

Claims 1-20, of which the claims 1, 8 and 15 are independent, are pending in the application.

The Examiner's new grounds for rejection of claims 1-20, under 35 USC § 103, and the cited references have been carefully considered by the Applicant.

New amendments to the claims are hereby submitted.

Reconsideration of the application as hereby amended is respectfully requested.

In relation with the Examiner's rationale for the obviousness rejection of claims 1-20 over Hayes in view of Wendt, the following is submitted.

Applicant respectfully disagrees with the Examiner's reading of features of the claims on the basic reference to Hayes as set forth in the Detailed Action since allegedly "equivalent" features are indicated in Hayes (*base 12, supporting base 20, horizontal connection channel 44, support 18 in plastics -as allegedly disclosed at col. 5, lines 19-21- clamp means 24, transverse pivot 56 made as integral part...*) that are believed, upon technically realistic interpretation of the claims terms as the one skilled in the art would actually do by taking account of the specification and drawings of the application and of the prior art, not to correspond as structure and function to the ones disclosed and claimed in the application.

In the argumentation for the claim rejection, the terms of the claims appear to

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have been considered in complete separation from the disclosures of the specification and drawings of the application and applied to the teachings of Hayes according to a scheme that appears to completely neglect the technical context of the claimed invention.

"Claims are not to be read in a vacuum, and limitations therein are to be interpreted in light of the specification in giving them their 'broadest reasonable interpretation'." 710 F.2d at 802, 218 USPQ at 292 (quoting In re Okuzawa, 537 F.2d 545, 548, 190 USPQ 464, 466 (CCPA 1976))

"The United States Patent and Trademark Office (USPTO) applies to the verbiage of the claims before it the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definitions or otherwise that may be afforded by the written description contained in the appellant's specification". In re Morris, 127 F.3d 1048, 1054, 44 USPQ2d 1023, 1027 (Fed. Cir. 1997). See also In re Sneed, 710 F.2d 1544, 1548, 218 USPQ 385, 388 (Fed. Cir. 1983). (underlining made by the underwriter)

Moreover, in the rejections set forth in the Office Action, Claims 1, 8 and 15 were grouped and treated together (as Claims 1-20) as if they were of the same scope.

It does not appear from the Detailed Action that the entire and exact scope of each one of the claims 8 and 15 has been considered, such scope being different from that of claim 1.

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There is no determination in the rejections of the scope of each of the claims 8 and 15 and of how the prior art applies to each of them.

In Claim 15, for example, a disposable kit has been claimed, formed from monolithic plastics support and container assembly with clamps on the support comprising finger actuation levers. No indication of prior art disclosure is contained in the rejections that may anticipate such a kit with features as claimed.

Furthermore, in establishing the alleged obviousness of the subject-matter of claim 1 teachings were combined with those of the basic reference to Hayes drawn from a document (Wendt) that is neither in the field of applicant's endeavor, nor it is pertinent for the particular problem with which the inventor was concerned.

Wendt deals with the field of photographic slide trays with plural holder cells and with the specific problem of the easy removal-insertion of transparency slides in such cells.

The field of endeavor of the applicant's claimed invention is that of the cytocentrifugation, in which sample supports are known to be required that are suitable to withstand very high dynamic (centrifugal) forces for blood separation that are known in the field to be as high as 250x to 600x g and higher. The cytology container along with generally glass slide has to be supported into the cytocentrifuge in a particular, tiltable manner that prevents

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the blood to smear the slide in an unseparated, pre-centrifugation state. Due to the sealing coupling between the sample chamber and the slide, the holder support was considered in the art to be protected from possible contact with the fluid treated and thus no sterilization was deemed necessary.

Such considerations along with the strongly felt need to provide a resistant, safe, non-deformable sample container holder, apparently always prevented the ones skilled in the art, though plastics sample containers were used, to consider provision of a disposable, single-use, plastic holder (see Hayes).

Should the monolithic plastic holder be so obvious to provide, to "save costs on materials and provide a simpler ready device" as the Examiner argues, in view of the known use of plastic sample containers, then why no one has ever provided one for cytocentrifugation in more than 11 years from the invention of Hayes?

Regarding the cost savings issue, it is also submitted that in the pertinent technical field, the plastics injection/molding for the fabrication of monolithic structures with protruding complex configurations and good resistance is known to be difficult and expensive to perform since highly technical complicated molds and machinery are necessary that are costlier than a press suitable to shape a "conventional sheet metal body".

It is therefore submitted that there is no prior art among the documents cited by the Examiner nor is any objective indication in the common knowledge of the ones skilled in the cytocentrifugation to show any

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desirability of possibly replacing an plural-piece, assembled metal holder with a monolithic, single-use one in plastics.

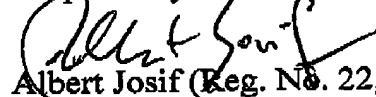
On the contrary, it is clearly apparent that it is a lack of motivation for the skilled person for such modification.

Notwithstanding the above, and making a sincere effort to put the claims as soon as possible in an allowable condition new amendments to claims 1, 8 and 15, are hereby submitted for approval.

It is therefore believed that the application is an allowable condition and allowance thereof is respectfully solicited.

While it is believed that the amended claims properly and clearly define the present invention, applicant would be open to any suggestion or amendment the Examiner may have or propose concerning different claim phraseology which, in the Examiner's opinion, more accurately defines the present invention.

Respectfully submitted,


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